

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

No. 24-1443 T
(Judge David A. Tapp)

ALPHA EXPRESS, LLC,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ANSWER TO COMPLAINT

Defendant, the United States, through its attorneys, files this Answer to plaintiff's ("Alpha Express") complaint. *See* Dkt. 1. Defendant respectfully denies all allegations that are not expressly admitted below.

Defendant further:

States that the introductory material prior to ¶ 1 is plaintiff's characterization of its legal action, to which no response is required. To the extent a response is required, defendant admits this is a refund suit in which Alpha Express is the plaintiff and the United States is the defendant but denies Alpha Express is entitled to any of the referenced amounts, interest, or fees and costs.

1. States that defendant presently lacks knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 1.

2. Admits the allegations in ¶ 2.

3. Admits the allegations in ¶ 3.

4. States that ¶ 4 consists of legal conclusions to which no response is required. States that jurisdiction, to the extent it exists, would be granted through 28 U.S.C. § 1491(a)(1).

5. States that plaintiff's "compli[ance] with the requirements of 26 U.S.C. § 7422(a)" is a legal conclusion to which no response is required. Admits that the Internal Revenue Service's ("IRS") files contain Forms 941-X filed by plaintiff for the second, third and fourth quarters of 2020, and the first quarter of 2021, all postmarked May 1, 2023, and all received at the Ogden, Utah service center on June 5, 2023.

6. Admits the allegations in ¶ 6.

7. Admits that IRS files contain Forms 941-X filed by plaintiff for the second, third and fourth quarters of 2020, and the first quarter of 2021, all postmarked May 1, 2023, and all received at the Ogden, Utah service center on June 5, 2023. States that whether plaintiff was "lawfully entitled" to what it claimed therein is a legal argument to which no response is required. States that defendant currently has no reason to believe that the document attached to the complaint as "Exhibit C" is not a true and correct copy. States that the footnote to ¶ 7 contains plaintiff's characterization of its legal action, to which no response is required.

8. Admits the allegations contained in the first two sentences of ¶ 8. States that defendant currently has no reason to believe that the document attached to the complaint as "Exhibit F" is not a true and correct copy. States that the IRS account transcript for plaintiff's 2020 tax year shows a \$311,954.06 refund was issued on December 26, 2022.

9. States that plaintiff's compliance with the referenced provision of the Internal Revenue Code is a legal conclusion to which no response is required. Admits that, assuming plaintiff's Forms 941-X were claims for credit or refund, they were timely filed.

10. Admits the allegations in ¶ 10.

11. Admits the allegations in ¶ 11.

12. States that defendant presently lacks knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 12. States that the IRS account transcript for plaintiff's tax year 2021 shows that a refund was issued on August 23, 2021. States that defendant currently has no reason to believe that the document attached to the complaint as "Exhibit C" is not a true and correct copy.

13-16. States that defendant presently lacks knowledge or information sufficient to form a belief as to the truth of the allegations in ¶¶ 13-16.

17. States that, to the extent ¶ 17 is alleging that Alpha Express "paid qualified wages" per the relevant provisions of the 2020 Coronavirus Aid, Relief and Economic Security Act, as modified by the 2020 Taxpayer Certainty and Disaster Tax Relief Act and the 2021 American Rescue Plan Act (collectively, "CARES"), this is a legal argument to which no response is required. States that, to the extent ¶ 17 is considered to contain factual allegations, defendant presently lacks knowledge or information sufficient to form a belief as to their truth.

18. States that defendant presently lacks knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 18.

19. States that, to the extent ¶ 19 is alleging that Alpha Express "paid qualified health plan expenses" per the relevant provisions of CARES, this is a legal argument to which no response is required. States that, to the extent ¶ 19 is considered to contain factual allegations, defendant presently lacks knowledge or information sufficient to form a belief as to their truth.

20. States that defendant presently lacks knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 20.

21. States that, to the extent ¶ 21 is alleging that plaintiff's business was "partially suspended" per the relevant provisions of CARES, this is a legal argument to which no response is required. States that, to the extent ¶ 19 is considered to contain factual allegations, defendant presently lacks knowledge or information sufficient to form a belief as to their truth.

22-23. States that ¶¶ 22-23 consist of legal argument to which no response is required.

24. Admits that, assuming plaintiff's Forms 941-X were claims for credit or refund, they were timely filed. States that IRS files contain Forms 941-X filed by plaintiff for the second, third and fourth quarters of 2020, and the first quarter of 2021, all postmarked May 1, 2023, all received at the Ogden, Utah service center on June 5, 2023, and totaling \$641,330.72.

25. Admits the amounts in the table in ¶ 25 are the amounts claimed in plaintiff's Forms 941-X for the corresponding employment quarters.

26. States that defendant presently lacks knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 26. States that IRS files contain Forms 941-X filed by plaintiff for the second, third and fourth quarters of 2020, and the first quarter of 2021, all received at the Ogden, Utah service center on June 5, 2023.

27. States that, to the extent ¶ 27 is alleging that Alpha Express "maintained adequate and accurate documentation" per the standards of the Internal Revenue Code and its implementing regulations, this is a legal argument to which no response is required. States that, to the extent ¶ 27 is considered to contain factual allegations, defendant presently lacks knowledge or information sufficient to form a belief as to their truth.

28. States that the IRS account transcript for plaintiff's 2020 tax year shows that a \$311,954.06 refund was issued on December 26, 2022.

29. States that the IRS account transcript for plaintiff's tax year 2021 shows that a \$324,985.01 refund was issued on August 23, 2021.

30. States that ¶ 30 is plaintiff's characterization of its legal action, to which no response is required.

31-32. States that ¶¶ 31-32 consist of legal argument to which no response is required.

33. States that defendant presently lacks knowledge or information sufficient to form a belief as to the allegations in ¶ 33.

34. Denies the allegations in ¶ 34.

35. States that ¶ 35 consists of legal argument to which no response is required.

36. Denies the allegations in ¶ 36.

37. Admits that, assuming plaintiff's Forms 941-X were claims for credit or refund, they were timely filed. States that IRS files contain Forms 941-X filed by plaintiff for the second, third and fourth quarters of 2020, and the first quarter of 2021, all postmarked May 1, 2023, all received at the Ogden, Utah service center on June 5, 2023, and totaling \$641,330.72.

38-40. Denies the allegations in ¶¶ 38-40.

41-42. States that ¶¶ 41-42 consist of legal argument to which no response is required.

43. Denies the allegations in ¶ 43.

44-45. States that ¶¶ 44-45 consist wholly of description of documents, to which no response is required as the documents speak for themselves.

46. Admits that IRS files contain Forms 941-X filed by plaintiff for the second, third and fourth quarters of 2020, and the first quarter of 2021, all postmarked May 1, 2023, and all received at the Ogden, Utah service center on June 5, 2023.

47. Admits Alpha Express, LLC is the named plaintiff in this case. Otherwise states that defendant presently lacks knowledge or information sufficient to form a belief as to the truth of the allegations in ¶ 47

WHEREFORE, defendant requests that the Court enter judgment in favor of defendant and against plaintiff on plaintiff's claims for refund of federal income tax, interest, fees and costs, for the employment quarters at issue, with costs assessed against plaintiff.

Dated: November 13, 2024

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